

- 599 An Ordinance Of The City Of Wilsonville Approving A Zone Map Amendment From The Clackamas County - Exclusive Farm Use (EFU) Zone And The City - Public Facility (PF) Zone To Village (V) Zone On Approximately 36.61 Acres In The Southeastern Portion Of Villebois Village, On Tax Lots 2903, 2900 And 2980, Section 15, T3S-R1W, Clackamas County, Oregon. West Hills Development/Villebois, LLC, Applicant. 10/3/05 – Never considered or adopted by Council.
- 600 An Ordinance Of The City Of Wilsonville Amending The Wilsonville Code By Adding Sections 6.300 Through 6.390 Relating To Mitigating Public Health And Welfare Impacts Of Forced Evictions Associated With Closure Of Mobile Home Parks, And Declaring An Emergency. First & Second reading on 10/17/05
- 601 An Ordinance Amending Ordinance No. 580 To Include The Planning Commission's Recommendation For W. C. 4.116 (.05) – E And G - Related To The Temporary Storage Of Inventory And Outdoor Display Of Inventory Under A Permanent Cover For Commercial Development In Any Zone. 11/21/05
- 602 An Ordinance Creating An Inventory Of Historic Resources And A Register Of Historic Places, Designating The Stein Homestead (Boozier) Barn As An Historic Resource, And Placing The Barn On The Inventory And On The Register. The Barn Is Located In Civic Center Park On Tax Lot 600, Section 24, T3S-R1W, Clackamas County, Oregon, City Of Wilsonville Urban Renewal Agency, Applicant. 12/19/05 first reading.

## ORDINANCES ADOPTED IN 2006

- 603 An Ordinance Amending Wilsonville Code Section 6.230 Relating To Mobile Home Park Closure Permits, Defining The Scope Of Actions Requiring A Permit, And Declaring An Emergency. 1/26/06
- 604 An Ordinance Of The City Of Wilsonville Approving A Comprehensive Plan Map Amendment From *Residential 0 – 1 Du/Ac* To *Residential 4 – 5 Du/Ac* And A Corresponding Zone Map Amendment From The *Residential Agricultural - Holding (Ra-H)* Zone To The *Planned Development Residential - 3 (PDR-3)* Zone On Approximately 4.11 Acres Of Tax Lots 404, 500 And 600, Section 13B, T3S, R1W, Clackamas County, Oregon. *Urban Solutions* Acting As Agent For The Applicant, *Doug Seely*. 2/6/06
- 605 An Ordinance Of The City Of Wilsonville Approving A Zone Map Amendment From The Residential Agricultural - Holding (RA-H) Zone To The Planned Development Commercial (PDC) Zone On Approximately .14 Acres Of Tax Lot 1300, Section 14D, T3S, R1W, Clackamas County, Oregon. *Urban Solutions*, Acting As Agent For The Property Owner, Mr. Jay Puppo. 2/6/06 first reading. 2/28/06 Second Reading
- 606 An Ordinance Amending Wilsonville Code Section 4.125(.05)E., Relating to Recreation area Requirements for Multiple Family Developments in the Villebois Urban Village. 4/6/06 Second reading.
- 607 An Ordinance Amending Wilsonville Code Section 4.125(.18)(K.) Concerning Park Development for Preliminary Development Plans. 4/3/06 Second reading.
- 608 An Ordinance Amending the City of Wilsonville Stormwater Master Plan. 4/3/06 Second reading.
- 609 An Ordinance Adopting An Amended Chapter 3 – Parks And Open Space/Off Street Trails And Pathways And Chapter 4 – Utilities Of The Villebois Village Master Plan. (staff – Neamtzu) (as of 4/3/06 second reading not scheduled)
- 610 An Ordinance Adopting Public Works Standards of the City of Wilsonville, Amending W.C. 3.294, and Making Conforming Amendments to W.C. Chapter 4, Sections 4.156, 4.177, and 4.178. (first reading 4/17/06).
- 611 An Ordinance Approving A Zone Map Amendment For Arbor Villebois No. 4 Of SAP South, Adopting Zoning Order DB05-0077 And Approving On Remand Preliminary Development Plan 4 For SAP South, A Tentative Subdivision Plat, A Final Development Plan, Refinements To Lot Dimensions, A Type C Tree Removal Plan, And An Amendment To The SAP South Phasing. The Site Is Located In SAP South Of Villebois Village On Tax Lots 2900 And 2905, Section 15, T3S-R1W, Clackamas County, Oregon. *West Hills Development/Villebois LLC*, Applicants. 6/5/06
- 612 An Ordinance Of The City Of Wilsonville Approving A Zone Map Amendment From The Public Facility (PF) Zone To Village (V) Zone On Approximately 16.48 Acres In Central Portion Of Villebois Village, Adopting Zoning Order DB06-0006 And Approving Specific Area Plan-Central, Placement Of Curb Extensions Within Sap-Central As A Minor Alternation To The Transportation

Systems Plan, SAP-Central Architectural Pattern Book, Village Center Architectural Standards, Master Signage And Wayfinding Plan, Community Elements Book, Rainwater Management Program And Plan; Preliminary Development Plan-Phase I, Type 'C' Tree Preservation And Removal Plan, Tentative Subdivision Plat (Small Lots), Final Development Plans For The Alexan At Villebois Apartments And Building 1F, Final Development Plan For The Seville Row And Les Bois Rowhomes, And Final Development Plans For The Carvalho Condominiums And Village Center Promenade On Tax Lots 2900 And 2990, Section 15, T3S-R1W, Clackamas County, Oregon. Costa Pacific Communities - Villebois, LLC, And Trammel Crow Residential Applicants. 6/5/06 first reading. 6/19/06 adopted

- 613 An Ordinance To Increase The Transit Tax Rate From 0.3% To 0.33% And To Amend Filing Requirements For Self-Employment. 7/24/06 adopted
- 614 An Ordinance Granting Time Warner Telecom Of Oregon, An Oregon Limited Liability Company, A Franchise To Operate A Competitive Telecommunications Business Within The City Of Wilsonville And To Place, Erect, Maintain, Lay And Operate In Upon Over And Under The Public Rights Of Way Necessary Wires And Other Appurtenances For Communications Purposes Within The City Of Wilsonville. First reading 8/21/06.
- 615 An Ordinance Of The City Of Wilsonville Administering Rights-Of-Way And Public Easements, Amending Chapter 3 Of The Wilsonville Code By Adding Sections 3.300 To 3.410 Thereto. 12/18/06
- 616 An Ordinance Of The City Of Wilsonville Imposing A Privilege Tax, Amending Chapter 3 Of The Wilsonville Code By Adding Section 3.500 – 3.560 Thereto. 12/18/06
- 617 An Ordinance Of The City Of Wilsonville Amending Chapter 5: Vehicles And Traffic Code, Repealing W.C. 5.000 Through 5.400 And Adopting W.C. 5.000 Through 5.555, Concerning And Relating To Vehicle, Parking, And Towing Regulations. First reading 10/16/06
- 618 An Ordinance Of The City Of Wilsonville Approving A Zone Map Amendment From Residential Agricultural - Holding (Ra-H) To Planned Development Industrial (PDI) On Approximately 25.21 Acres Located At The Northeast Corner Of Kinsman Road And Barber Street, Adopting Zoning Order Db06-0076 For Property On Tax Lots 600, 700, 790 And The Southerly Portion Of Tax Lot 900, Section 14B, T3S, R1W, And Further Approving A Stage I Preliminary Plan, Stage II Final Plan For Phase I, Master Sign Plan, Type 'C' Tree Preservation And Removal Plan, Site Design Plans And A Significant Resource Impact Report On Tax Lots 600, 700, 790 And The Southerly Portion Of Tax Lot 900, Section 14B And Portions Of Tax Lots 1600 And 1701, Section 14A, T3S, R1W, Clackamas County, Oregon. Tri-met And Smart/City Of Wilsonville - Applicants. (staff – Edmonds) First reading 10/16/06
- 619 An Ordinance Of The City Of Wilsonville Vacating Portions Of SW 110<sup>th</sup> Avenue North And South Of Barber Street Within The Villebois Village Community And Declaring An Emergency. 11/6/06
- 620 An Ordinance Of The City Of Wilsonville Approving A Zone Map Amendment From The Clackamas County Exclusive Farm Use (EFU) Zone And The City Public Facility (PF) Zone To Village (V) Zone On Approximately 4.75 Acres In The West Central Portion Of Villebois Village, In

The Southerly Part Of Tax Lot 2900, Section 15, T2S-R1W, Clackamas County, Oregon. West Hills Development/Villebois, LLC, Applicant. (staff – Edmonds) First reading 11/6/06;

- 621 An Ordinance Of The City Of Wilsonville **Approving** A Zone Map Amendment From The *Residential Agricultural - Holding (Ra-H)* Zone To The *Planned Development Residential - 4 (Pdr-4)* Zone For Phase 1 Of Wilsonvillage On Approximately 10,720 Square Feet Of The Southwest Corner Of Tax Lot 400 Of Section 23ac, T3s, R1w, Clackamas County, Oregon. Mr. Ben Altman Of Urban Solutions, Acting As Agent For The Applicants Carol Dickey And Jeff Cameron. *Not considered or adopted.*
- 622 An Ordinance Of The City Of Wilsonville **Denying** A Zone Map Amendment From The *Residential Agricultural - Holding (Ra-H)* Zone To The *Planned Development Residential - 4 (Pdr-4)* Zone And Denying An Appeal Of The Development Review Board Decision That Denied Stage Ii Final Plan, Tentative Subdivision Plat (In Lieu Of Stage I Preliminary Plan); Site Design Plan And Type 'C' Tree Plan On Approximately 1.8 Acres Of Tax Lots 400, 401 And 500, Section 23ac, T3s, R1w, Clackamas County, Oregon. Mr. Ben Altman Of Urban Solutions, Acting As Agent For The Applicants Carol Dickey And Jeff Cameron. *Not considered or adopted.*
- 623 An Ordinance Of The City Of Wilsonville Adopting A *Bicycle And Pedestrian Master Plan* (November 2006) As A Sub-Element Of The City's Comprehensive Plan And Replacing Chapter 5 - *Bicycle And Pedestrian Facilities* Of The 2003 Transportation Systems Plan 12/4/06 first reading. Second reading scheduled for 12/18/06
- 624 An Ordinance Of The City Of Wilsonville Amending Chapter 5: Vehicles And Traffic Code, Repealing W.C. 5.505 Concerning And Relating To Sleds On Streets. 3/5/07
- 625 An Ordinance Of The City Of Wilsonville Adopting A *Parks And Recreation Master Plan* (April 2007) To Officially Replace The 1994 Parks And Recreation Master Plan. 9/17/07
- 626 An Ordinance Of The City Of Wilsonville Regulating The Erection, Construction, Enlargement, Alteration, Repair, Moving, Removal, Demolition, Conversion, Maintenance Of All Buildings And/Or Structures In The City Of Wilsonville; Providing For The Issuance Of Permits And Collection Of Fees Therefore; Providing Penalties For The Violation Thereof; Adopting A Fee Schedule; And Amending Chapter 9, Section 9.000 Of The Wilsonville Code (**Structural Specialty Code**); And Repealing Ordinance No. 582. First reading 5/7/07
- 627 An Ordinance Of The City Of Wilsonville Regulating The Erection, Construction, Enlargement, Alteration, Repair, Moving, Removal, Demolition, Conversion, Maintenance Of All Buildings And/Or Structures In The City Of Wilsonville; Providing For The Issuance Of Permits And Collection Of Fees Therefore; Providing Penalties For The Violation Thereof; Adopting A Fee Schedule; And Amending Chapter 9, Section 9.100 Of The Wilsonville Code (**Mechanical Specialty Code**); And Repealing Ordinance No. 585. First reading 5/7/07 adopted 5/21/07
- 628 An Ordinance Establishing An **Affordable Housing Fund** And A Fee To Provide A Funding Source For Affordable Housing Within The City Of Wilsonville. First reading 5/7/07 Adopted 5/21/07 Repealed 7/16/07 by Ordinance 636.

- 629 An Ordinance Of The City Of Wilsonville Amending W.C. 5.030, Authorizing The City Manager To Set A Schedule Of Fines For Violation Of Chapter 5. First reading 5/21/07. Adopted 6/4/07.
- 630 An Ordinance Of The City Of Wilsonville Amending W.C. 1.012, Fines For Violation, To Increase The Maximum Amount Of A Fine And Make Each Day The Violation Persists A Separate Offense. First reading 5/21/07. Adopted 6/4/07.

ORDINANCE NO. 630

**AN ORDINANCE OF THE CITY OF WILSONVILLE AMENDING W.C. 1.012, FINES FOR VIOLATION, TO INCREASE THE MAXIMUM AMOUNT OF A FINE AND MAKE EACH DAY THE VIOLATION PERSISTS A SEPARATE OFFENSE.**

WHEREAS, with inflation and an increase in the cost of maintaining the City, it is reasonable to raise the maximum penalty amount that can be assessed for violation of the Code from the amount set in 1984; and

WHEREAS, the City desires that each day a violation persists to be treated as a separate violation, with a separate assessment;

NOW THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

**Section 1.** Wilsonville Code section 1.012 is hereby amended to read as follows:

**W.C. 1.012. Fines for Violation.**

~~[(1) A sentence to pay a fine for a violation shall be a sentence to pay an amount fixed by the court, not exceeding \$250.00.]~~

**Any person sentenced to pay a fine for a violation, unless provision is otherwise made herein, shall upon conviction thereof, be punished by a fine, fixed by the court, not exceeding \$500. However, no greater penalty shall be imposed than the penalty prescribed by the Oregon statute for the same act or omission. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and may be punished accordingly.**

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 21st of May, 2007, at the hour of 7 p.m. at the Wilsonville

City Hall, and scheduled for second reading on June 4, 2007 commencing at the hour of 7 p.m. at the Wilsonville City Hall.

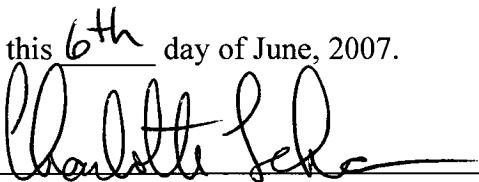
  
\_\_\_\_\_  
SANDRA C. KING, MMC, City Recorder

ENACTED by the City Council on the 4th day of June 2007, by the following votes:

YEAS: 4      NAYS: 0

  
\_\_\_\_\_  
SANDRA C. KING, MMC, City Recorder

DATED and signed by the Mayor this 6<sup>th</sup> day of June, 2007.

  
\_\_\_\_\_  
CHARLOTTE LEHAN, Mayor

SUMMARY OF VOTES:

Mayor Lehan	Yes
Councilor Kirk	Yes
Councilor Knapp	Yes
Councilor Ripple	Yes
Councilor Núñez	Excused

## Memorandum

To: Honorable Mayor and City Council

From: Michael E. Kohlhoff, City Attorney  
Paul A. Lee, Assistant City Attorney  
Ashley S. Berman, Law Clerk

Date: April 26, 2007

Re: Maximum Fine Amount for Code Violation

---

### **Introduction**

An important aspect of the City Code is to provide for an enforcement mechanism in the event of a code violation. The simplest enforcement tool is the ability to assess a reasonable fine for a violation. In 1984, Wilsonville adopted W.C. 1.012 which provides:

“a sentence to pay a fine for a violation shall be a sentence to pay an amount fixed by the court, not exceeding \$250.00.”

This memo serves to raise two issues. First, staff proposes that the maximum fine amount should be increased from \$250.00 to \$500.00. Second, the structure of W.C. 1.012 limits the assessment of fines to code sections that specifically designate “violations of such code sections shall be punished pursuant to” W.C. 1.012. Not all Code sections provide for punishment pursuant to W.C. 1.012. Those that do not may not be assessed a fine when they are violated. We wish to bring this to your attention and explain the process we are undertaking to ensure that each code section has an appropriate remedy for its violation. We also present an alternative structure for W.C. 1.012 such that violation of any code section may result in assessment of a fine.

### **(1) Maximum Fine Per Day**

The current maximum fine for Wilsonville is \$250.00, set in 1984. Comparable maximum penalties of surrounding municipalities are:

<b>City</b>	<b>Maximum Fine Amount</b>
Portland	\$500.00
West Linn	\$500.00
Lake Oswego	\$1,000.00
Beaverton	Class I - \$250.00 Class II - \$150.00 Class 3 - \$50.00

Many violations of the Code rely on the fine amount designated in W.C. 1.012. For fines for the violation of Tree Preservation and Protection (4.640), Transient Lodging Tax



(7.280), Business Licenses (7.370), and Garbage Disposal (8.152) are all capped by W.C. 1.012's \$250.00 maximum. Some sections provide a lower maximum, such as W.C. 4.156(.12), Sign Regulations, which provides violations are not to exceed \$100.00 per day. For certain violations, \$250.00 may not provide strong enough deterrence for individual's to forgo the violation. Additionally, Staff is in the process of amending the Nuisance Code to allow for citation in the event of a nuisance. For egregious nuisances such as toxic substances, or health and safety hazards, the City wants to provide a strong incentive for individual's to abate the nuisance immediately.

Staff believes that a \$500 maximum is an amount with sufficient deterrence presence to reduce code violations. We do not believe we need to provide for Class's of violations like the City of Beaverton because this would be a large administrative expense to categorize violations according to Class and we feel confident that we can rely on our court to make appropriate fine determinations based on the egregiousness of the violation.

As the Code is currently written, it is unclear whether each day acts as a separate violation. We clarify that each day a violation persists is a separate violation through the proposed amendment below.

Deletions are shown in bracketed strikethrough language and additions are shown in bracketed bold and underlined language:

**W.C. 1.012. Fines for Violation.**

~~[(1) A sentence to pay a fine for a violation shall be a sentence to pay an amount fixed by the court, not exceeding \$250.00.]~~

**Any person sentenced to pay a fine for a violation, unless provision is otherwise made herein, shall upon conviction thereof, be punished by a fine, fixed by the court, not exceeding \$500. However, no greater penalty shall be imposed than the penalty prescribed by the Oregon statute for the same act or omission. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and may be punished accordingly.**

**W.C. 1.012 Limitations**

This phrase has acted as our "catch all" code section to assess a fine in the event of a code violation. It provides for assessment of a fine for violation of a code section only for violation of code sections that specifically call for a fine to be assessed. For example, Chapter 5, Section 5.030 provides fines to be assessed for a violation of Chapter 5, as designated by W.C. 1.012.

However, not all chapters provide that violation of a chapter provision results in punishment or assessment in a fine. When a code section does not provide for paying a fine upon violation, W.C. 1.012 is powerless. For example, when an individual creates a nuisance, the City must go through summary abatement procedures. The City cannot assess a fine for each day the nuisance persists.

The ability to assess daily fines for code violations creates a powerful incentive for people to remedy code violations as soon as possible. We are in the process of evaluating all sections of the Code to ensure enforcement provisions requiring payment of a fine are in place for each Code section.

Other municipalities, such as the City of Portland, provide that “It is unlawful to violate any provision or to fail to comply with any requirement of this Code. Any person violating any provision or failing to comply with any requirement of this Code, unless provision is otherwise made herein, shall upon conviction thereof, be punished by a fine of not more than \$500.”

The above structure is an efficient and immediate method of ensuring that the City has the authority to assess a fine in the event of a violation, even where code sections do not specify as such. The rationale is that the Code is a set of rules for the residents, visitors, and businesses to abide by. Therefore it should be expected that a violation of any of its sections may result in a reasonable fine. However this structure also opens the possibility for abuse such that procedural violations, such as failure to submit complete applications for Site Development Permits (W.C. 4.035(.05)) are technically vulnerable to a fine.

### **Recommendation**

Staff recommends amending W.C. 1.012 as described above and invite your comments as to whether the City Code should provide authorization to assess a fine for any code violation.